

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

**ORDER DENYING OBJECTION,
ADOPTING REPORT AND RECOMMENDATION TO DISMISS,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS***

On May 14, 2015, the *pro se* Plaintiff, Xylie Eshleman, filed a civil complaint accompanied by a motion to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) United States Magistrate Judge Edward G. Bryant granted leave to proceed *in forma pauperis* on May 15, 2015. (ECF No. 5.) Plaintiff filed an amended complaint on December 28, 2015. (ECF No. 8.) On July 11, 2016, Magistrate Judge Bryant issued a Report and Recommendation (“R&R”) in which he recommended the Court dismiss the case *sua sponte*. (ECF No. 10.) Plaintiff filed a timely objection on July 25, 2016. (ECF No. 11.)

Plaintiff sues Bahakel Communications (“Bahakel”), identified in the complaint as the parent company of WBBJ-TV, a television station in Jackson, Tennessee. Jurisdiction is based on diversity of citizenship. (ECF No. 1 at 2.) In the original complaint, Plaintiff asserted claims of libel per se (*id.*) and false light invasion of privacy (*id.* at 7). However, the amended complaint is designated, at the top of each page, “[c]laim in place of original tort complaint.” (ECF No. 8.) Thus, the

amended complaint is intended to supersede the original complaint. In that amended pleading, which includes a fifty-two-page complaint, four pages of exhibits and a one-page affidavit, Plaintiff contends that she has notified Bahakel and provided evidence of its alleged “trespass” against her but that Bahakel has refused her demand to pay the “debt” that is owed. She states that she is “in possession of a self-executing contract that becomes enforceable for monetary compensation in the event of unauthorized use of my property, name and image.” (*Id.* at 2.) She claims she is entitled to \$6,000,000. (*Id.* at 3.)

In the R&R, Magistrate Judge Bryant found that the amended complaint fails to comply with Federal Rule of Civil Procedure 8 and is frivolous. In her objection, Plaintiff complains that the Magistrate Judge issued almost identical R&Rs in her pending cases, listed the wrong defendant in the caption of the case¹ and misstated the number of pages in the amended pleadings.² (ECF No. 11 at 1.) It is stated, “[t]he magistrates [sic] order to dismiss did not provide one statement not consistent with dishonor and was actually vague and frivolous.” (*Id.*) Plaintiff then states she is “giving notice of dishonor and dishonoring the honorable magistrate’s presentment order to dismiss” and that he is “dishonoring any rule against me.” (*Id.*)

Nothing in Plaintiff’s objection warrants rejecting Magistrate Judge Bryant’s conclusion. A review of the amended complaint demonstrates it is nonsensical and frivolous. Accordingly, Plaintiff’s objection is DENIED. The Court ADOPTS the R&R and DISMISSES this case as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

¹ The caption of the R&R in this case lists the Defendant as Gannett Co. instead of Bahakel. (ECF No. 10 at 1.) Gannett is the defendant in another of Plaintiff’s cases, number 15-1123-JDT-egb.

² There is no such error in this case.

Pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a), the Court CERTIFIES that an appeal by Plaintiff would not be taken in good faith and DENIES leave to appeal *in forma pauperis*. Accordingly, if Plaintiff files a notice of appeal, she must also pay the entire \$505 appellate filing fee or file a motion to proceed *in forma pauperis* and supporting affidavit in the Sixth Circuit Court of Appeals.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE